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C O N F I D E N T I A L SECTION 01 OF 02 KABUL 001232

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SUBJECT: TALIBAN AND WARLORD QUESTIONS AS THE ECC SETS UP
FOR CHALLENGES

REF: A. KABUL 993

[1](#)B. KABUL 1211

Classified By: Political Counselor Alan Yu for reasons
1.4 (b) and (d).

[1](#)1. (U) SUMMARY: At a May 12 press conference, the five commissioners of the Electoral Complaints Commission (ECC) introduced their organization, noted the jurisdiction of the ECC and explained the process for the upcoming challenge period. Afghan media representatives pressed the ECC on whether it would, or could, exclude Taliban candidates and warlords from the contests. Short answer: Taliban or warlord affiliation would not by itself be an excludable factor, but participation in illegal activities common to members of such groups would be justification for exclusion. Led by Chairman Grant Kippen, the commissioners articulated their role and that of the ECC and requested the support of all stakeholders - the people and institutions of Afghanistan and the international community - in protecting the electoral process. END SUMMARY

[1](#)2. (U) Kippen opened the conference by providing an overview of the ECC's structure (ref A) and purpose, citing article 52 of the electoral law which provides for the creation of an independent commission to adjudicate complaints and challenges for the electoral process. Kippen, who was Chairman of the ECC in 2005, made clear that the ECC's authority is limited by the electoral law to violations detailed in article 53, and sanctions in article 54. ECC sanctions range from issuing a warning or imposing a fine of up to 100,000 Afs (USD 2,005) to disqualifying a candidate or ordering a re-vote in a specific area or contest. The commissioners encouraged voters and citizens to educate themselves on the regulations and provide all possible information, including evidence if available, when filing a challenge or complaint. They also pushed organizations with information to file complaints, citing FeFA's announcement of violations during the candidate registration process (ref B).

EXPLAINING THE CHALLENGE PROCESS

[1](#)3. (U) On May 16, the Independent Election Commission (IEC) will publish the preliminary candidate list for the presidential and provincial council elections. The IEC will display the list outside its provincial offices and at IEC headquarters until close of business on May 21. The preliminary list will include each candidate's name, randomly assigned registration number, photograph and electoral symbol. Any political party agent, candidate or voter can file a challenge to the ECC against an individual's candidacy during this period - challenges will not be accepted after May 21.

[1](#)4. (U) The ECC can only consider challenges filed based on the specific criteria for candidacy set out in the constitution and the electoral law. The ECC will notify

candidates if they are challenged, but will maintain the confidentiality of a challenger's identity. If challenged, a candidate will have until May 27 at 4PM local time to respond. The ECC will request information from other Afghan government institutions to investigate challenges; for example, the ECC will request the conviction record from the attorney general's office for a candidate challenged for having a criminal conviction.

WHAT ABOUT WARLORDS?

15. (SBU) Several journalists pressed the ECC on the required standard of evidence and whether the ECC would initiate investigations of potential candidates with widely known histories of human rights abuses. Kippen asserted that challenges are required for ECC action and that challengers must submit any possible evidence, noting that rumors and innuendo cannot serve as the basis of a complaint.

16. (C) From previous conversations with ECC and IEC officials, we've learned that the ECC, the IEC and the Joint Secretariat have an informal, undisclosed information-sharing agreement regarding the official government list of persons with links to illegal armed groups (the Disarmament of Illegally Armed Groups (DIAG) list.) The ECC will challenge the candidacy of any registered individual appearing on the DIAG list - an outside challenge to the candidacy is not required. ECC commissioners have privately told poloffs that the ECC hopes to initiate investigations and will accept information from UNAMA regional offices in a manner less formal than a complaint. The ECC must complete challenge

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investigations by June 9 when the IEC will begin compiling the final candidate list.

HOW ABOUT THE TALIBAN?

17. (C) Another journalist asked the ECC how they would handle a candidate with ties to the Taliban, claiming that some contenders are already advertising this affiliation. The commissioners reiterated the requirement for a formal complaint and that such a complaint should be based on electoral offenses. Although Taliban connections alone are not an offense, the electoral law offenses would likely cover some aspect of illegal activity in which a known Taliban actor would engage. One registered presidential candidate, Mullah Abdul Salaam Raket, a public figure with a known history of illegal activities that includes a stint as a Taliban allied commander, will provide an early test for the ECC. How the ECC pursues an investigation of Raket will offer an early test of whether it can stand up to politics and defend the integrity of the electoral process.

COMPLAINTS ABOUT BAD BEHAVIOR

18. (U) Also starting May 16, the ECC will begin accepting and adjudicating complaints about electoral offenses. Detailed by the electoral law, electoral offenses cover a broad range of actions from outright fraud to failure to comply with the directives of electoral bodies. Candidates, party agents or voters can file complaints against other candidates, journalists, voters or organizations - including the IEC - if the filer believes an electoral offense exists. The ECC will investigate complaints and can sanction those found in breach. Sanctions are graduated from warnings and fines to exclusion as a candidate.

STAYING ON MESSAGE

19. (U) The commissioners repeatedly encouraged the public to educate themselves about the process and noted the public

responsibility to provide the ECC with relevant complaints and challenges to safeguard the electoral process. The ECC closed with a promise to work closely with the public, the IEC and other Afghan government organizations to safeguard the elections, improve on the efforts of 2005 and build capacity for the future.

ALMOST OUT OF THE GATE

¶10. (U) The ECC's Kabul headquarters is the focus of operations, with support from the 34 provincial complaints commissions (PCC). Kippen reported that Kabul staff were officially hired and undergoing training to prepare for the challenge period. The ECC will move into its Kabul location on May 16 and is identifying PCC staff and locations. The ECC plans to have PCCs established by June 16; from separate conversations with ECC officials, we know this process is ongoing. In the interim, IEC external relations officers will accept challenges in provincial offices and forward them to the ECC for adjudication. External relations officers are receiving training in the ECC challenge and complaint documents and will ensure complaints packets include all required information for review - they will not evaluate the complaints.
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